

REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action mailed on September 21, 2004.

In this Amendment, non-elected claim 108 is canceled (to expedite the prosecution), so that claims 96-98, 100, 106-107, and 109 are pending.

Claims 96-98, 100, 106, and 109 are rejected for obviousness-type double patenting in view of US 6,588,241. Claims 96-98, 100, 106, and 109 are rejected for obviousness-type double patenting in view of US 6,112,562. Claims 96-98, 100, 106, 107, and 109 are provisionally rejected for obviousness-type double patenting in view of the claims in co-pending application no. 09/804,973.

In response, appropriate terminal disclaimers are being concurrently filed herewith. By filing the terminal disclaimers, Applicants do not admit that the pending claims are obvious in view of the claims in the noted patents and patent applications. MPEP 804.02 states:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Withdrawal of the obviousness-type double patenting rejections is requested.

Applicants note the Examiner's statement that formal drawings will be required before the application is allowed. Applicants submit that pursuant to MPEP 608.02(z), formal drawings may be submitted after a Notice of Allowance has been issued. Applicants will submit formal drawings after a Notice of Allowance is received.

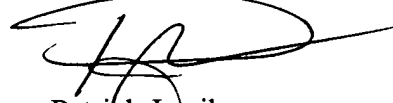
Appl. No. 09/441,142
Amdt. dated November 16, 2004
Reply to Office Action of September 21, 2004

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Respectfully submitted,



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